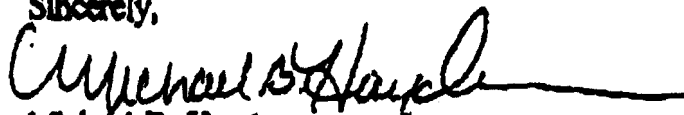


Your use of a dedicated, fixed link, aural intercity relay station for intermittent message insertions is inconsistent with the expressed purpose of those stations. In accordance with Section 308(b) of the Communications Act of 1934, as amended, you are directed to show cause why WMG-499 should not be revoked and your operating authority for the aural intercity relay station cancelled. Your written response should be directed to FCC Microwave Branch, 1270 Fairfield Road, Gettysburg, PA 17325, within 30 days of the date of this correspondence. Until this matter is resolved, you are further advised that WMG-499 may only be used consistent with the rules and/or in accordance with the expressed terms of the license authorizing use of WMG-499. Any other use is strictly prohibited and must be immediately terminated.

Sincerely,



Michael B. Hayden
Chief, Microwave Branch

nmro.csl

000121

CARL T. JONES
CORPORATION

June 13, 1995

Via U.S. Mail and Facsimile

Mr. Michael B. Haydon, Chief
FCC Microwave Branch
1270 Fairfield Road
Gettysburg, PA 17325

Dear Mr. Hayden:

This letter is prepared on behalf of Gerard A. Turro ("Turro"), licensee of intercity relay ("ICR") station, WMG-499. The ICR station is associated with broadcast station W276AQ, Fort Lee, New Jersey.

By letter dated June 6, 1995, the Microwave Branch advised the licensee of WMG-499 to terminate operation of the ICR station. The purpose of this letter is to request that the Microwave Branch reevaluate its initial decision that, as stated in your letter, "use of intercity relay station WMG-499 in conjunction with WJUX [formerly WNJW] is no longer needed [and] its original use was inconsistent with the intent of the rules". It is submitted that the licensee is operating WMG-499 in accordance with the expressed terms of the license authorizing use of WMG-499 and, as a result, the microwave license should not be revoked.

At the time the WMG-499 license was granted, W276AQ rebroadcasted the programming of WJUX(FM) [now WNJW(FM)], Franklin Lakes, New Jersey. The WMG-499 license authorizes Turro to transmit 30 second messages originating from 75 Second Street, Dumont, NJ to the translator. The Dumont transmit location served as the main studio location for WNJW(FM), Franklin Lakes, NJ. The Dumont transmit location now serves as a remote control point and secondary studio location for WJUX(FM) [formerly WXTM(FM)], Monticello, NY.

By letter dated November 30, 1994, (copy attached) Turro notified the FCC that the Fort Lee translator station changed its associated primary station from WNJW(FM), Franklin Lakes, NJ, to WJUX(FM), Monticello, New York. The Fort Lee translator receives the WJUX(FM) signal over the air and rebroadcasts the programming to Bergen County. The current state of WNJW(FM), Franklin Lakes, NJ, has no bearing on the operation of WMG-499 or W276AQ. The Microwave Branch reasons that because WNJW(FM) is currently silent, WMG-499 is no longer needed.

Mr. Michael B. Hayden
June 13, 1995
Page 2

In light of the information provided herein, it is clear that WMG-499 continues to be used precisely as authorized. The 30-second messages, permitted pursuant to Section 74.1231(g) of the FCC Rules, are delivered from the authorized transmit location to the authorized receive location using the authorized transmitting frequency.¹ In addition, WMG-499 would be used to relay emergency warnings to the Fort Lee translator for broadcast to the population of Bergen County (825,380 persons) which currently lacks a local FM service.²

It should be noted that the WMG-499 microwave link is in use 24 hours per day. However, only the 30-second messages and any emergency transmissions are broadcast over W276AQ. The microwave link operates in this manner for two primary reasons:

(1) The microwave equipment is not manufactured to operate on an intermittent basis. Switching the equipment on and off every hour for a 30-second transmission will eventually lead to equipment failure.

(2) Turro recognizes the secondary nature of the multiplexed return telemetry link. In an effort to make the 951.0 MHz transmission readily identifiable, the link must be operational 24 hours a day. In the event WMG-499 causes interference, the offended party will have the ability to easily identify the transmission source. In a once an hour, 30-second message, it would be extremely difficult to identify the interfering source.

It is submitted that this material clearly identifies the need for WMG-499. In addition, the microwave link serves a substantial public interest because of its integral role in emergency management in Bergen County. Your letter incorrectly states that the "sole purpose of WMG-499 is to insert original broadcast information". The licensee

¹ The WMG-499 microwave link is also used for remote control purposes. The microwave link provides remote control capability to switch from the Ft. Lee main transmit antenna to its authorized auxiliary antenna. This is critical to the operation of W276AQ because of frequent operational problems with the main transmit facility.

² The attached letter from the Bergen County Office of Emergency Management demonstrates the clear need for the emergency service the WMG-499 link provides. Section 74.1231(g) of the FCC Rules recognizes this need and sets forth an explicit mechanism whereby local programming may be delivered to a translator station as necessary to protect life and property.

Mr. Michael B. Hayden
June 13, 1995
Page 3

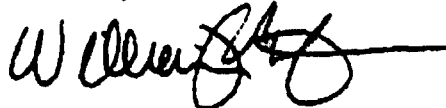
submits that it is the main purpose, not the sole purpose. The remote control capabilities is an ancillary function of WMG-499, and Turro recognizes this fact.

Your letter states that Turro's, "use of a dedicated, fixed link, aural intercity relay station for intermittent message insertions is inconsistent with the expressed purpose of these stations". However, the insertion of the original broadcast information to an FM translator station is a permitted function of an inter-city relay station under Section 74.1231 of the FCC Rules. This type of ICR station is authorized on a secondary basis only. The Microwave Branch apparently confuses the WMG-499 authorization with that of a *protected* intercity relay station associated with a full service broadcast station. WMG-499 is authorized to operate on a *secondary basis only* as described in Section 74.1231 of the FCC Rules. Because of the intermittent nature of the authorization, the station receives no protection from interference. This secondary authorization is the "penalty" WMG-499 inherits because of the intermittent nature of its operation. The penalty is not that the license should be revoked as suggested by the Microwave Branch.

Given the facts that the WMG-499 microwave link causes no interference, operates in accordance with the expressed terms of its license, and serves the public interest, the WMG-499 license should not be revoked. The licensee recognizes the secondary nature of the authorization, and respectfully requests the reinstatement of the permanent operating authority for WMG-499. Until such a time as permanent authority is reissued, the licensee herein requests Special Temporary Authority to operate the microwave station as originally authorized.

In the event there are any questions concerning this matter, please contact the undersigned.

Sincerely,



William J. Getz

Attachments

cc: Gerry Turro
Art Goodkind, Esq.

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ATTACHMENT B

Engineering Statement

000125

CARL T. JONES
CORPORATION

**STATEMENT OF HERMAN E. HURST, JR.
REGARDING THE OPERATION OF
W276AQ, FORT LEE, NEW JERSEY AND
W232AL, POMONA, NEW YORK**

Prepared for: Gerard A. Turro

I am a Radio Engineer, an employee in the firm of Carl T. Jones Corporation, with offices located in Springfield, Virginia. My education and experience are a matter of record with the Federal Communications Commission.

This office has been authorized by Gerard A. Turro ("Turro") to prepare this statement in technical support to the response to FCC letter dated June 21, 1995 concerning the operation of W276AQ, Fort Lee, New Jersey, and W232AL, Pomona, New York. The purpose of this statement is to provide the FCC with the requested clarification relating to the FM translator stations during the period from October 18, 1994 until the present.

During the time period from October 18 through October 25, 1994, W276AQ (hereinafter, "Fort Lee translator") rebroadcast noncommercial educational FM station WNJW(FM) [formerly WJUX(FM)], Franklin Lakes, New Jersey. W232AL, Pomona, New York, (hereinafter, "Pomona translator") rebroadcast the signal received from the Fort Lee translator.

On October 25, 1994, noncommercial educational FM station WNJW(FM) temporarily went silent. The Fort Lee translator changed its primary station to full service

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FM station WJUX(FM) [formerly WXTM(FM)], Monticello, New York. The directional receive antenna located at Fort Lee received the WJUX(FM) broadcast signal directly through space. To avoid potential adjacent channel interference to the reception of WJUX(FM), a specially designed 3-cavity filter manufactured by EMR Corporation in Phoenix, Arizona, was added to the receiver subsystem. This filter provides a 40 dB discrimination between the WJUX(FM) carrier and carriers removed ± 10 kHz. The off-air signal received from WJUX(FM) was then suitably converted, amplified and rebroadcasted over the Fort Lee translator.

During the time that the Fort Lee translator rebroadcast WJUX(FM), the Pomona translator changed its primary station to full service FM station WRGX(FM), Briardcliff Manor, New York. The directional receive antenna located at Pomona received the WRGX(FM) broadcast signal directly through space, suitably converted and amplified the signal and rebroadcasted the WRGX(FM) signal over the Pomona translator.

On January 10, 1995, after the consummation of the sale of the W232AL translator, the Pomona translator station began receiving programming material over-the-air from full service FM station WJUX(FM), Monticello, New York.¹ A directional, high gain receive antenna and the specially designed EMR Corporation filter (moved from the Fort Lee location) are used to receive the WJUX(FM) over-the-air signal. The aural

¹ The prior licensee of W232AL, Pomona, New York, was Wesley R. Weis and Gerard A. Turro. On December 23, 1994, the FCC granted Assignment of License Application (FCC File No. BALFT-941019TC) authorizing the assignment of the W232AL license to Gerard A. Turro.

programming material is then converted, suitably amplified, and rebroadcast over the Pomona translator in accordance with Section 74.1231 of the FCC Rules. Another directional receive antenna located at the Fort Lee translator receives the over-the-air signal from the Pomona translator. The received signal is then converted and suitably amplified for rebroadcasting on the Fort Lee translator. It is my understanding that no alternate means of program delivery is used.² The Fort Lee translator has the ability to receive *directly through space* either the WJUX(FM) broadcast signal or the Pomona translator's broadcast signal depending on signal quality.

As stated in Turro's attached letter, it has been alleged that the signal of WJUX(FM) is inadequate to supply the quality signal rebroadcast over the Fort Lee translator.³ This is simply untrue. On July 6, 1995, I listened to the over-the-air reception of the WJUX(FM) signal at both translator locations. I can attest to the good quality of the WJUX(FM) signal at both the Pomona translator and at the Fort Lee translator. The accompanying cassette tape was made by Mr. Turro at the Fort Lee site, and clearly demonstrates the good quality of both the WJUX(FM) signal (99.7 MHz) and the signal received from the Pomona translator (94.3 MHz). In addition to the cassette tape which

² Aural Inter-City Relay station WMG-499, an auxiliary broadcast station associated with W276AQ, was being used to deliver once-an-hour, 30-second messages and emergency messages to the Fort Lee Translator. However, as explained in the attached letter, WMG-499 is presently silent.

³ See February 15, 1995, letter to FCC from Messrs Roy R. Russo and Richard A. Helmick on behalf of Universal Broadcasting of New York, Inc., licensee of standard broadcast station WVNJ, Oakland, New Jersey.

proves that the high fidelity receive signal is present in reality, as demonstrated below, theory also shows that the system will perform reliably.

The reliable, high fidelity, over-the-air signal that WJUX(FM) provides to both the Pomona and Fort Lee translator locations is not surprising when the unique propagation characteristics of the radio path and the transmit and receive equipment are considered. The Pomona translator receives a better quality signal from WJUX(FM) than does the Fort Lee translator. As a result, the Fort Lee translator currently rebroadcasts the over-the-air signal from Pomona.

The distance and bearing from the WJUX(FM) transmitter site to the Pomona receive location is 82.7 km (51.4 miles) at 137.3 degrees true. Radio station WJUX(FM), a monophonic broadcast facility, currently operates with an Effective Radiated Power (ERP) of 6.0 kW at an antenna Height Above Average Terrain (HAAT) of 100 meters. The WJUX(FM) antenna HAAT along the 137.3 degree radial is 133 meters. Using the FCC's F(50,50) propagation curves, the predicted received field strength at the Pomona translator is 36.4 dBu (66 $\mu\text{V/m}$). In reality, and according to alternate prediction methods, the received signal level is even higher.⁴

⁴ According to the Longley-Rice prediction model, which considers the propagation characteristics unique to a given radio path, the received signal at Pomona is expected to be between 110 $\mu\text{V/m}$ and 200 $\mu\text{V/m}$. The Longley-Rice model predicts a received signal at Fort Lee between 8 $\mu\text{V/m}$ and 14 $\mu\text{V/m}$.

It is well documented that a monophonic broadcast system will serve a much wider area than a conventional stereo broadcast facility because receiver characteristics allow for much better reception of low level mono signals.⁵ Typically fixed mono FM receivers have a sensitivity of 3 to 5 $\mu\text{V/m}$.⁶ According to the NAB Engineering Handbook, "FM stereo signal-to-noise ratio is 22 dB worse than for mono at levels at or below 300 $\mu\text{V/m}$ ".⁷ Therefore, at the Pomona site, the fidelity of the predicted WJUX(FM) monophonic signal strength of 66 $\mu\text{V/m}$ is comparable to a stereo receive signal of 0.83 mV/m which is 4.3 dB greater than what the Commission considers "primary service" for a Class B FM facility. When one also considers the high gain, optimized, fixed, directional receive antenna, the receive antenna's height, and special filtering in the Pomona translator's receiver subsystem, the received audio fidelity will be much greater than the FCC's F(50,50) curves predict.

⁵ See Amendment of Part 3 of the Commission's Rules and Regulations to Permit FM Broadcast Stations to Transmit Stereophonic Programs on a Multiplex Basis, Docket No. 13506; FCC 61-254 Released April 20, 1961. The record contains substantial evidence pertaining to the "lost coverage area" which would be created as a direct result of the conversion from monophonic to stereophonic broadcasting.

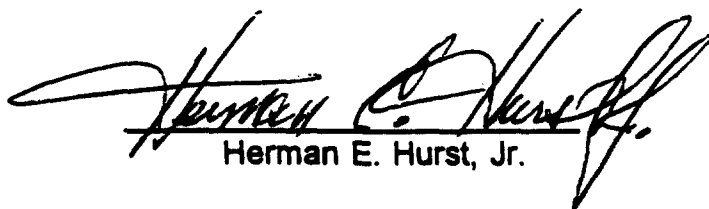
⁶ RF Signal for 30 dB audio signal-to-noise ratio. See *NAB Engineering Handbook Eighth Edition*, Section 7.2 Radio Receivers, Table 2, page 1144.

⁷ See *NAB Engineering Handbook Eighth Edition*, Section 7.2 Radio Receivers, page 1145.

STATEMENT OF HERMAN E. HURST, JR.
PAGE 6

This statement has been prepared by me or under my direct supervision and is
believed to be true and correct.

DATED: July 25, 1995



Herman E. Hurst, Jr.

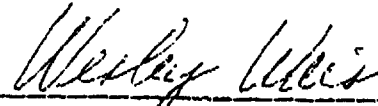
000131

ATTACHMENT C

Rebroadcast Consents

000132

I Wesley Wels, president of Monticello Mountaintop Broadcasting, due hereby give permission to FM translator W232AL, Pomona to rebroadcast the signal of WXTM, 99.7 FM, Monticello, New York.

A handwritten signature in cursive script, appearing to read "Wesley Wels", is written over a horizontal line.

Wesley Wels, President WXTM

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ODYSSEY COMMUNICATIONS, INC.

Michael Kakoyiannis
President/CEO

October 12, 1994

Mr. Jerry Turo
Translator W232AL
Pomona, NY 10970

Via Fax: (201) 439-0033

Dear Mr. Turo:

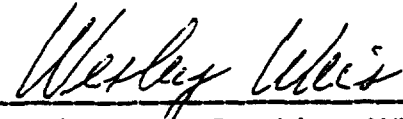
This letter will act as authorization for you to rebroadcast WRGX-FM programming on translator W232AL effective 10/21/94.

Regards,

Mike Kakoyiannis

000134

I Wesley Weis, president of Monticello Mountaintop Broadcasting, due hereby give permission to FM translator W276AQ, Fort Lee to rebroadcast the signal of WXTM, 99.7 FM, Monticello, New York.

A handwritten signature in cursive script, reading "Wesley Weis", positioned above a horizontal line.

Wesley Weis, President WXTM

ATTACHMENT D

Network Affiliation Agreement, As Amended

Network Affiliation Agreement

Bergen County Community Broadcast Foundation (Network) and Monticello Mountaintop Broadcasting Inc. (MMBI) enter into this network affiliation agreement on OCT. 17, 1994. This agreement will commence at 12:01 AM, Oct. 1, 1994 and terminate at 12:01 AM, Oct. 1, 2004.

Network will provide MMBI with twenty-four hours of programming on a seven day basis, 365 days a year. Network will also provide all local station identifications (Legal ID's), public affairs programming, and Emergency Broadcast System tests.

Network agrees to indemnify MMBI and hold it harmless from any and all fines, surcharges, forfeitures, levies, and any other monetary damages imposed by the F.C.C.

Network is responsible for delivery of usable audio programming to MMBI via satellite, phone lines or other suitable means. Network is responsible for all costs incurred for delivering Network audio. Network will abide by all applicable FCC rules concerning program content.

Network will compensate MMBI for carrying all network programming on a twenty-four hour basis, as follows:

Year One - \$8,575.00 per month

Year Two - \$8,975.00 per month

Year Three - the first six months - \$9,140.00 per month

Year Three - the second six months - \$5,400.00 per month

Year Four - \$5,400.00 per month

Year Five - \$4,675.00 per month

Remaining 5 years - Year 5 plus 5% or the CPI, whichever is greater.

All payments are due and payable, in advance, on the first of the month. MMBI will provide Network with a ten day grace period after the first of the month.

The monthly compensation to MMBI will be reduced by \$3,600.00 per month after the first thirty months of network affiliation.

Both parties agree to abide by all applicable FCC rules and regulations.

MMBI agrees to allow translator W276AQ to rebroadcast 99.7 FM, Monticello New York.

This agreement will be binding to Network, its successors, assigns and/or transferees.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 17th day of OCTOBER, 19 94.

Signed, sealed and delivered
in the presence of

Kathleen Kahyaoglu

Gerald Turro for Network

Wesley Weis
Wesley Weis for MMBI

STATE OF NEW JERSEY }
COUNTY OF BERGEN } SS.:

BE IT REMEMBERED that on this 17 day
of OCTOBER, 19 94 before me, the subscriber,
a Notary Public of New Jersey, personally appeared
Gerald Turro, Wesley Weis, who, I am satisfied,
are the person(s) named in and who executed the within
Instrument, and thereupon have acknowledged that they
signed the same as _____ act and deed, for the uses and purposes
therein expressed.

Kathleen Kahyaoglu
Notary Public of N.J.

KATHLEEN KAHYAOGU
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES SEPT. 15, 1998

000138

GUARANTY OF PAYMENT

In order to induce Monticello Mountaintop Broadcast Inc. (hereinafter referred to as MMBI) to enter into a network affiliation agreement, dated October 1994, with Bergen County Community Broadcast Foundation (hereinafter referred to as the "network"), the undersigned (hereinafter jointly and severally referred to as the "Guarantor"), does hereby unconditionally *guarantee* the full and prompt *payment* by the Network when due, to MMBI, its successors and assigns, for the full term of the network affiliation agreement, of any and all indebtedness, liabilities and obligations, of every nature and description, including all attorney's fees, costs and expenses of collection incurred by MMBI.

The liability of the Guarantor hereunder is *continuing* and is *unlimited* unless a limit is stated in this paragraph, in which case said limit shall not exceed the sum of \$400,000. Dollars.

IN WITNESS WHEREOF, the Guarantors have hereunto set their hands and seals this

17 day of OCTOBER, 19 94

Signed, sealed and delivered
in the presence of

Kathleen Kalyan

Gerard Turro

687 Orchard Street

Oradell NJ 07649

[Signature]
Signature

STATE OF NEW JERSEY }
COUNTY OF BERGEN } SS.:

BE IT REMEMBERED that on this 17 day of OCTOBER, 19 94 before me, the subscriber, a Notary Public of New Jersey, personally appeared Gerard Turro who, I am satisfied, IS the person(s) named in and who executed the within Instrument, and thereupon has acknowledged that HE signed the same as _____ act and deed, for the uses and purposes therein expressed.

Kathleen Kalyan

Notary Public of N.J.

KATHLEEN KAHYAOGU
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES SEPT. 15, 1998

000139

AMENDMENT TO NETWORK AFFILIATION AGREEMENT

Bergen County Community Broadcast Foundation ("Network") and Monticello Mountaintop, Inc. ("MMBI") hereby amend the Network Affiliation Agreement ("Agreement") between them dated October 17, 1994. This Amendment is entered into on the ____ day of November, 1994, but is retroactive to commencement of the Agreement.

(1) The Agreement pertains to the FM broadcast station on 99.7 MHz assigned to Monticello, New York, which currently operates under the call letters WXTM (the "Station").

(2) Notwithstanding any other provision in the Agreement, MMBI retains responsibility for ascertainment of the needs of its community of license and service area. The parties agree that the network programming to be supplied by Network will include programming which responds to these ascertained needs and concerns, but that MMBI shall have the right to broadcast such additional programming, either produced or purchased by MMBI, as it determines appropriate to respond to the ascertained issues of community concern and to delete or preempt in its sole discretion any Network programming for the purpose of transmitting such programming.

(3) In addition to the right of MMBI to delete or preempt Network programming in order to broadcast MMBI programming responsive to issues of concern to its community of license, MMBI maintains the independent right to preempt or delete any Network programming which MMBI believes to be unsatisfactory or unsuitable or contrary to the public interest, or to substitute programming which, in MMBI's opinion, is of greater local or national importance.

(4) MMBI's acceptance and broadcast of Network programming is at all times subject to MMBI's responsibility to comply with all FCC regulations, including all technical regulations governing the operation of the Station, including maintenance of a main studio and providing a meaningful managerial and staff presence at that main studio, ascertainment of and programming in response to community needs and concerns, compliance with political programming laws and regulations, sponsorship identification rules, lottery and contest regulations, maintenance of the Station's public and political files, compiling appropriate quarterly program/issues lists, employment records and all other FCC requirements and duties.

IN WITNESS WHEREOF, the parties have hereunto set their
hands and seals this 17 day of ~~November~~, 1994.

JULY 95

Signed, sealed and delivered
in the presence of

Kathleen Kahyaoglu

KATHLEEN KAHYAOGLU
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES SEPT. 15, 1998

Gerard Tatro for Network

equal TO IN OCT, 1994

W. Weis 7/17/95

Wesley Weis for MMBI

000141

ATTACHMENT E

**Letter to Mr. Alan Schneider, Chief, Auxiliary Services Branch and
Response from Mr. Roy Stewart, Chief, Mass Media Bureau**

000142

Gerard Turro
111 East California Avenue
Beach Haven, N.J. 08008
January 30, 1991

The Federal Communications Commission
Mr. Alan Schneider
Auxiliary Services Branch
Washington, D.C. 20036

Dear Mr. Schneider;

The purpose of the letter is to request the Commission for an informal declaratory ruling concerning the operation of commercial FM translators.

In the event a licensee of a commercial FM translator wishes to purchase broadcast airtime on the originating station which is carried on the license's translator may he or she do so?

The following conditions would exist:

1. The translator would be operating outside of the originating stations primary contour.
2. The primary station would not re-imburse the translator licensee for air-time pursuant to the Commission's rules. At no time would the primary station be financially supporting the translator licensee.
3. Any airtime purchased on the primary station by the translator licensee would abide by the Commission's rules regarding purchase of brokered airtime.
4. Advertising may be sold for broadcast during such brokered airtime to support this programming.

It is respectfully requested the Commission expedite a reply to this informal request.

Respectfully submitted,



Gerard Turro

000143

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

COPY

19 NOV 1991

IN REPLY REFER TO:

8930-AJS

Rainer K. Kraus, Esquire
Koteen & Naftalin
1150 Connecticut Avenue
Washington, D.C. 20036

Dear Mr. Kraus:

This refers to your correspondence of January 31, 1991, and the accompanying January 30, 1991 letter of Gerard Turro, licensee of FM translator station W276AQ, Fort Lee, New Jersey. Mr. Turro requests the Commission to provide an informal declaratory ruling regarding the proposed operation of an FM translator station. In particular, Mr. Turro seeks guidance on whether a licensee of a commercial FM translator station can purchase broadcast airtime on the station it is rebroadcasting ("primary station"). The purchase would be under the following circumstances:

1. The translator would be operating outside of the primary contour of the station being rebroadcast;
2. Pursuant to the Commission's Rules, the primary station would not reimburse the translator station licensee for airtime purchased (the primary station would not provide any financial support to the licensee of the translator);
3. The translator station licensee would purchase the airtime through a time brokerage agreement and would meet the Commission's rules and policies on such agreements; and
4. The translator would solicit advertisements to be aired during the brokered time to support the programming presented.

Specifically, the issue presented by Mr. Turro's request is whether the licensee of a translator station is permitted to enter into a time brokerage contractual arrangement with its primary station, provided that the primary station does not either reimburse the translator station licensee for the purchase of the brokered time or provide financial support for the translator station's operation.

In order to rule on Mr. Turro's request we must first determine the effect such a request would have on our newly revised FM translator rules governing financial support by commercial primary stations (47 C.F.R. § 74.1232

000144

(1990)).¹ Additionally, because airtime for the programming will be purchased through a time brokerage contractual arrangement, we must also give attention to the Commission's Policy Statement on Part-Time Programming, 82 FCC 2d 107 (1980).²


Under § 74.1232(e), an FM translator station whose coverage contour extends beyond the protected contour of the primary station cannot receive any support, before or after construction, either directly or indirectly, from the primary station. This applies to all persons and entities having any interest or connection with the primary station.

With regard to brokerage arrangements between licensees and brokers, such arrangements usually involve the broker as both program producer and commercial salesperson for a time block purchased from the licensee. Our rules only require licensees to keep brokerage contracts at the station and make them available for Commission inspection upon request (47 C.F.R. § 73.3613(d) (1989)).

In view of the specific circumstances presented by Mr. Turro's request, we conclude that his proposed operation would be consistent with the Commission's rules and policies as outlined above. However, this conclusion rests on the following requirements: the time brokerage contract must be kept at the primary station and made available for Commission inspection upon request per § 73.3613(d); there must be a bona fide, arms-length transaction between the primary station and the translator; the licensee of the translator station will have to pay the primary station a rate charge comparable to the amount charged other purchasers of brokered airtime, or an amount consistent with such charges in the local broadcast community; and at no time would the translator station receive financial support, directly or indirectly, from the primary station to cover any costs associated with the operation and maintenance of the translator station.

Accordingly, to the extent indicated above, and in view of the specific circumstances presented, we do not find that Mr. Turro's proposal would be prohibited by the Commission's rules or policies.

Sincerely,


Roy J. Stewart, Chief
Mass Media Bureau

1 See Report and Order In the Matter of Amendment of Part 74 of the Commission's Rules Concerning FM Translator Stations, MM Docket No. 88-140, 5 FCC Rcd. 2106 (1990).

2 See 47 C.F.R. § 73.4267 (1989).